

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 19-46824

MARK M. BELLO,

Chapter 11

Debtor.

Judge Thomas J. Tucker

**ORDER DISSOLVING SHOW-CAUSE ORDER AND DETERMINING THAT THE
DEBTOR MAY PROCEED UNDER SUBCHAPTER V OF CHAPTER 11**

On May 3, 2019, the Debtor filed a voluntary petition for relief under Chapter 13, commencing this bankruptcy case. On December 27, 2019, the Debtor filed a motion to convert this case to Chapter 11.¹ On January 15, 2020, the Court entered an opinion and an order granting the Motion,² and this case was converted to Chapter 11. On January 29, 2020, the Court entered a scheduling order for this Chapter 11 case.³

On March 2, 2020, the Debtor filed an amended voluntary petition, purporting to elect “to proceed as a small business debtor under Subchapter V of Chapter 11.”⁴ On March 9, 2020, the Court issued a show-cause order (the “Show-Cause Order”), in which the Court stated:

The Small Business Reorganization Act of 2019 (“SBRA”) was enacted into law on August 23, 2019. The SBRA amended the Bankruptcy Code and added Subchapter V to Chapter 11, with an effective date of February 19, 2020. In light of the fact that this bankruptcy case was initially filed under Chapter 13 and was converted to Chapter 11 all before the February 19, 2020 effective date of the SBRA, the Debtor’s filing of an amended petition

¹ Docket # 89, the “Motion.”

² Docket ## 101, 102.

³ Docket # 109.

⁴ Docket ## 135-1 at 1, 135-2 at 4, Item 13.

electing to proceed under Subchapter V raises the issue of whether, under the facts of this case, the Debtor is eligible to do so. To what extent, if any, may the provisions of the SBRA be applied to cases that were pending before the SBRA's February 19, 2020 effective date?⁵

The Show-Cause Order provided, in relevant part:

IT IS ORDERED, that no later than March 16, 2020, the Debtor must file a written response to this Order, showing cause why the Court should not strike the Debtor's amended petition, and its purported election to proceed as a small business debtor under Subchapter V of Chapter 11.

IT IS FURTHER ORDERED that no later than March 23, 2020, the United States Trustee and all creditors may file a response to the Debtor's written response this Order.⁶

On March 10, 2020, the United States Trustee appointed Deborah Fish as the Subchapter V Trustee in this case.⁷ After the appointment of the Subchapter V Trustee, the Debtor, the United States Trustee, and Judith Michaelian, individually, and in her capacity as Personal Representative of the Estate of Marshall S. Michaelian, filed timely responses to the Show-Cause Order.⁸

The Court has reviewed all of the responses to the Show-Cause Order, and now concludes that this case may proceed under Subchapter V of Chapter 11. The Court agrees with the reasoning and holding in the recent case of *In re Moore Properties of Person Cnty. LLC*, No.

⁵ Docket # 138 ("Order Requiring the Debtor to Show Cause in Writing Why the Court Should Not Strike the Debtor's Purported Election to Proceed as a Small Business Debtor under Subchapter V of Chapter 11") at 1-2.

⁶ *Id.* at 2.

⁷ Docket # 139.

⁸ Docket ## 144, 153, 154.

20-80081, 2020 WL 995544 (Bankr. M.D.N.C. Feb. 28, 2020). That case held that a debtor in a Chapter 11 case that was pending before the February 19, 2020 effective date of the SBRA could elect to proceed under Subchapter V. The Court finds the *Moore Properties* court's reasoning applicable to the facts of this case, which is still in the early, pre-confirmation stage as a Chapter 11 case.

Accordingly,

IT IS ORDERED that the Show-Cause Order (Docket # 138) is dissolved.

IT IS FURTHER ORDERED that the Debtor may proceed under Subchapter V of Chapter 11.

The Court will enter a new Chapter 11 scheduling order, by separate order.

Signed on March 27, 2020



/s/ **Thomas J. Tucker**

Thomas J. Tucker
United States Bankruptcy Judge